

EXHIBIT A

08-13-2013

Designation List Report



Tran, Binh

2013-08-13

| | |
|-----------------------------|-----------------|
| Plaintiff Designations | 00:18:18 |
| Defense Designations | 00:11:43 |
| Defense Counters | 00:31:26 |
| Plaintiff Reply to Counters | 00:05:58 |
| TOTAL RUN TIME | 01:07:26 |



Documents linked to video:

515
568
651
821
D3
D9
D11
D13
D16
D21
D24
D35
D444
D1227



Tran_10-31-23_1020 - 08-13-2013

| DESIGNATION | SOURCE | DURATION | ID |
|---------------|--|----------|------------------|
| 11:22 - 12:08 | Tran, Binh 2013-08-13 | 00:00:12 | Tran_10-31-23_10 |
| | 11:22 THE VIDEOGRAPHER: And would the court | | 20.1 |
| | 12:01 reporter please swear in the witness. | | |
| | 12:02 * * * * * | | |
| | 12:03 Whereupon, | | |
| | 12:04 BINH K. TRAN, | | |
| | 12:05 called as a Witness, was duly sworn by | | |
| | 12:06 Jonathan Wonnell, a Notary Public in and | | |
| | 12:07 for the State of Minnesota, and was | | |
| | 12:08 examined and testified as follows. | | |
| 12:14 - 14:03 | Tran, Binh 2013-08-13 | 00:01:32 | Tran_10-31-23_10 |
| | 12:14 Q. Good morning, Mr. Tran. | | 20.2 |
| | 12:15 A. Good morning. | | |
| | 12:16 Q. My name is Evan Davis. I'm an attorney | | |
| | 12:17 for United Egg Producers and United States Egg | | |
| | 12:18 Marketers. | | |
| | 12:19 Would you mind providing your -- | | |
| | 12:20 spelling your name and your -- give me your | | |
| | 12:21 position with General Mills? | | |
| | 12:22 A. Okay. I am Binh Tran. That's spelled | | |
| | 13:01 B-i-n-h. Last name is T-r-a-n. And I'm currently | | |
| | 13:02 our sourcing director in our purchasing group. And | | |
| | 13:03 I am responsible for our commodity spend. | | |
| | 13:04 Q. And how long have you had that title? | | |
| | 13:05 A. I've had that title for the last | | |
| | 13:06 approximately 18 months. | | |
| | 13:07 Q. What was your title prior to that? | | |
| | 13:08 A. I was a senior sourcing manager for our | | |
| | 13:09 commodities group. | | |
| | 13:10 Q. So is your current title a promotion? | | |
| | 13:11 A. That's correct. | | |
| | 13:12 Q. And how long were you a senior sourcing | | |
| | 13:13 manager? | | |
| | 13:14 A. Approximately three years. | | |
| | 13:15 Q. Did you have similar responsibilities to | | |
| | 13:16 your job now? | | |
| | 13:17 A. I did. Yes. | | |
| | 13:18 Q. And what were you prior to being a | | |
| | 13:19 senior sourcing manager? | | |
| | 13:20 A. I was a buyer. | | |

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| DESIGNATION | SOURCE | DURATION | ID |
|---|---|----------|--------------------------|
| | 13:21 Q. Also for commodities? | | |
| | 13:22 A. No. For other raw materials like | | |
| | 14:01 packaging and ingredients and capital equipment. | | |
| | 14:02 Q. How long were you a buyer? | | |
| | 14:03 A. Approximately six years. | | |
| 14:15 - 15:10 | Tran, Binh 2013-08-13 | 00:00:46 | Tran_10-31-23_10 20.3 |
| | 14:15 Q. And can you tell me about your | | |
| | 14:16 educational background. Do you have an | | |
| | 14:17 undergraduate degree? | | |
| | 14:18 A. Yeah. I have an undergraduate degree in | | |
| | 14:19 genetic engineering and an MBA. | | |
| | 14:20 Q. Now, in your current role as sourcing | | |
| | 14:21 director, do you have responsibility for the | | |
| | 14:22 purchase of eggs or egg products? | | |
| | 15:01 A. I do not. | | |
| | 15:02 Q. And did you have responsibility for the | | |
| | 15:03 purchase of egg or egg products in your role as | | |
| | 15:04 senior sourcing manager? | | |
| | 15:05 A. I did. | | |
| | 15:06 Q. How about in your role as buyer? | | |
| | 15:07 A. I did also. | | |
| | 15:08 Q. And in what year did you join General | | |
| | 15:09 Mills? | | |
| | 15:10 A. 2003. | | |
| 25:20 - 25:21 | Tran, Binh 2013-08-13 | 00:00:03 | Tran_10-31-23_10 20.4 |
|  568.1.1 | 25:20 MR. DAVIS: I'd like to show you what's | | |
| | 25:21 been marked as Exhibit 2. | | |
| 25:22 - 26:20 | Tran, Binh 2013-08-13 | 00:00:58 | Tran_10-31-23_10 20.5 |
| | 25:22 (Tran Exhibit 2 was | | |
| | 26:01 marked for | | |
| | 26:02 identification.) | | |
| | 26:03 BY MR. DAVIS: | | |
| | 26:04 Q. Do you recognize Exhibit 2? | | |
| | 26:05 A. I do. | | |
| | 26:06 Q. What is this document? | | |
| | 26:07 A. This is a historical spend and volume | | |
| | 26:08 report that outlines how much we spent, with who we | | |
| | 26:09 spent and what type of materials we bought between | | |
| | 26:10 2004 and 2013. | | |
| | 26:11 Q. And how was Exhibit 2 prepared? | | |

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| | 26:12 A. Exhibit 2 was prepared by pulling data | | |
| | 26:13 out of our ERP system, which is an SAP system that | | |
| | 26:14 basically stores all records of purchase orders, | | |
| | 26:15 you know, by price, volume, contracts, you know, at | | |
| | 26:16 the detail level and to which plants and which | | |
| | 26:17 suppliers it went to. | | |
| | 26:18 Q. Did you pull the data from the ERP | | |
| | 26:19 system? | | |
| | 26:20 A. For this particular report, I did. | | |
| 27:05 - 27:11 | Tran, Binh 2013-08-13 | 00:00:28 | Tran_10-31-23_10 |
| | 27:05 Q. Tell me about the ERP system. Are all | | 20.6 |
| | 27:06 purchase orders entered into that system? | | |
| | 27:07 A. Yes, it is. So, you know, our company, | | |
| | 27:08 we can't make any purchases or pay any bills | | |
| | 27:09 unless -- for raw materials, unless there is a | | |
| | 27:10 specification that is in the system and the order | | |
| | 27:11 is -- the purchase order is put through the system. | | |
| 28:06 - 28:16 | Tran, Binh 2013-08-13 | 00:00:23 | Tran_10-31-23_10 |
| | 28:06 Q. And this is done as part of General | | 20.7 |
| | 28:07 Mills' regular business activities? | | |
| | 28:08 A. Correct. | | |
| | 28:09 Q. And it's a regular practice to input | | |
| | 28:10 that information? | | |
| | 28:11 A. Correct. | | |
| | 28:12 Q. And General Mills relies on its ERP | | |
| | 28:13 system to conduct business? | | |
| | 28:14 A. Correct. | | |
| | 28:15 Q. Is Exhibit 2 an accurate compilation of | | |
| | 28:16 the data from the ERP system? | | |
| 28:17 - 28:20 | Tran, Binh 2013-08-13 | 00:00:06 | Tran_10-31-23_10 |
| | 28:17 A. It is. | | 20.8 |
| | 28:18 Q. You said that this document begins with | | |
| | 28:19 data in 2004; is that correct? | | |
| | 28:20 A. That's correct. | | |
| 32:02 - 33:07 | Tran, Binh 2013-08-13 | 00:01:21 | Tran_10-31-23_10 |
|  568.1.2 | 32:02 Q. If you look at the first page of | | 20.9 |
| | 32:03 Exhibit 2, there are seven headings: Dried Whites, | | |
| | 32:04 Dried Whole, Dried Yolks, Egg Replacer, Frozen | | |
| | 32:05 Whole, Liquid Whites and Liquid Whole. Do you see | | |

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|---------------|---|----------|------------------|
| | 32:06 those? | | |
| | 32:07 A. Mm-hmm. | | |
| | 32:08 Q. What are dried whites? | | |
| | 32:09 A. Dried whites is a specification that | | |
| | 32:10 basically calls for the white part of the egg to be | | |
| | 32:11 dried into powder form. | | |
| | 32:12 Q. And dried yolks are the same thing for | | |
| | 32:13 yolks? | | |
| | 32:14 A. That's correct. | | |
| | 32:15 Q. Dried whole is the same, but a | | |
| | 32:16 combination of the two? | | |
| | 32:17 A. Yes. | | |
| | 32:18 Q. How about liquid whites? | | |
| | 32:19 A. That's just an undried version. It's in | | |
| | 32:20 its natural liquid form. | | |
| | 32:21 Q. Are they pasteurized? | | |
| | 32:22 A. Generally they are. | | |
| | 33:01 Q. And liquid whole would be the same | | |
| | 33:02 thing, but the egg and the yolk combined? | | |
| | 33:03 A. That's right. | | |
| | 33:04 Q. What is frozen whole? | | |
| | 33:05 A. Frozen is a cook IQFed whole egg. | | |
| | 33:06 Q. What does IQF stand for? | | |
| | 33:07 A. Individually quick frozen. | | |
| 35:18 - 35:20 | Tran, Binh 2013-08-13 | 00:00:04 | Tran_10-31-23_10 |
| | 35:18 Q. Does General Mills purchase any shell | | 20.10 |
| | 35:19 eggs? | | |
| | 35:20 A. We do not. | | |
| 35:21 - 36:12 | Tran, Binh 2013-08-13 | 00:00:49 | Tran_10-31-23_10 |
| | 35:21 Q. So General Mills' purchasing of -- all | | 20.11 |
| | 35:22 of the items that comprise Exhibit 2 are egg | | |
| | 36:01 products; is that correct? | | |
| | 36:02 A. That's correct. | | |
| | 36:03 Q. And how does General Mills define egg | | |
| | 36:04 products? | | |
| | 36:05 A. Well, egg products are anything that are | | |
| | 36:06 derived from an egg and then, you know -- and its | | |
| | 36:07 derivatives of that would be considered egg | | |
| | 36:08 products. | | |
| | 36:09 Q. Is it fair to define egg products as | | |

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| | 36:10 shell eggs that are broken and sold in liquid, 36:11 frozen or dried form? 36:12 A. That would be a fair statement. | | |
| 52:06 - 52:13  568.1.4 | Tran, Binh 2013-08-13 52:06 Q. For all of the suppliers listed on 52:07 Exhibit 2, do you know if any of them became 52:08 suppliers at some point 1999 or later? 52:09 A. I'm sorry. Can you ask your question 52:10 again? 52:11 Q. So, for example, Rembrandt became a 52:12 supplier to General Mills in 2008; is that right? 52:13 A. Correct. | 00:00:23 | Tran_10-31-23_10 20.12 |
| 53:08 - 53:16  Clear | Tran, Binh 2013-08-13 53:08 Q. My question is whether or not General 53:09 Mills added any new egg suppliers -- or egg product 53:10 suppliers in the 1999 to 2003 period. 53:11 A. No. The list between '99 and 2003 would 53:12 look very similar to this. The last major change 53:13 that we had in our supply base would be Rembrandt. 53:14 Between '99 and 2003, we would still have Michael 53:15 Foods, Papetti's, Primera, and Rose Acres as 53:16 suppliers to General Mills. | 00:00:43 | Tran_10-31-23_10 20.13 |
| 56:05 - 57:09 | Tran, Binh 2013-08-13 56:05 Q. During the course of a negotiation with 56:06 an egg product supplier, would General Mills 56:07 negotiate the price that it paid for the egg 56:08 products? 56:09 A. Yes. We would negotiate prices. 56:10 Q. And how did that negotiation take place? 56:11 A. Normally the negotiations would start 56:12 with referring to some type of market price 56:13 mechanism that is out there or index that could be 56:14 used as a reference to start the prices. Generally 56:15 we would use Urner Barry as an index to base prices 56:16 off of. 56:17 Q. And that would be a starting point for 56:18 your negotiation? 56:19 A. Yes. 56:20 Q. And what would transpire between that 56:21 starting point and ultimately agreeing on a price | 00:01:23 | Tran_10-31-23_10 20.14 |

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| | 56:22 term? | | |
| | 57:01 A. Well, that would give us our base price. | | |
| | 57:02 So Urner Barry would be the base price and then | | |
| | 57:03 freight and packaging would be added on top of | | |
| | 57:04 that. | | |
| | 57:05 Q. But these terms were subject to | | |
| | 57:06 negotiation? | | |
| | 57:07 A. The freight and packaging components are | | |
| | 57:08 generally the components that are up for | | |
| | 57:09 negotiations. | | |
| 96:05 - 96:18 | Tran, Binh 2013-08-13 | 00:00:44 | Tran_10-31-23_10 |
| | 96:05 Q. What is Urner Barry pricing? | | 20.15 |
| | 96:06 A. Urner Barry is a trade publication that | | |
| | 96:07 does market research and depicts prices for meat | | |
| | 96:08 and egg products. | | |
| | 96:09 Q. And do you understand the phrase or have | | |
| | 96:10 you ever heard the phrase "market-based pricing"? | | |
| | 96:11 A. Yes. | | |
| | 96:12 Q. And what do you understand that to mean? | | |
| | 96:13 A. Market-based pricing is prices that are | | |
| | 96:14 tied to some type of index or some type of recorded | | |
| | 96:15 mechanism that is a third party. | | |
| | 96:16 Q. And insofar as egg products are | | |
| | 96:17 concerned, is that market index Urner Barry? | | |
| | 96:18 A. That's correct. | | |
| 97:19 - 98:11 | Tran, Binh 2013-08-13 | 00:00:34 | Tran_10-31-23_10 |
| | 97:19 Q. So specifically what Urner Barry prices | | 20.16 |
| | 97:20 were incorporated into the market-based pricing | | |
| | 97:21 that General Mills paid? | | |
| | 97:22 A. We would reference dried -- either dried | | |
| | 98:01 whole, yolk or white, based on Urner Barry, and | | |
| | 98:02 that would be the foundation for our prices. | | |
| | 98:03 Q. Did General Mills also purchase liquid? | | |
| | 98:04 A. Yes, we did. | | |
| | 98:05 Q. And did General Mills purchase liquid on | | |
| | 98:06 market-based pricing? | | |
| | 98:07 A. Yes, we did. | | |
| | 98:08 Q. And what Urner Barry price was used for | | |
| | 98:09 that pricing? | | |
| | 98:10 A. It would be the liquid whole or white or | | |

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|-----------------|--|----------|---------------------------|
| | 98:11 yol. | | |
| 99:16 - 99:21 | Tran, Binh 2013-08-13 | 00:00:12 | Tran_10-31-23_10 20.17 |
| | 99:16 Q. Did General Mills ever purchase off of | | |
| | 99:17 the graded egg quotes from Urner Barry? | | |
| | 99:18 A. No. We don't. | | |
| | 99:19 Q. And those are for shell eggs; is that | | |
| | 99:20 right? | | |
| | 99:21 A. Yes. | | |
| 99:22 - 100:16 | Tran, Binh 2013-08-13 | 00:00:58 | Tran_10-31-23_10 20.18 |
| | 99:22 Q. How often does the Urner Barry quote | | |
| | 100:01 change? | | |
| | 100:02 A. Urner Barry quotes could change really | | |
| | 100:03 daily. Yeah. My understanding is that it's daily. | | |
| | 100:04 Our prices are generally an average of whatever -- | | |
| | 100:05 the average of the prior month's prices. | | |
| | 100:06 Q. And so when General Mills purchased off | | |
| | 100:07 of market-based pricing -- | | |
| | 100:08 A. Mm-hmm. | | |
| | 100:09 Q. -- that price paid by General Mills was | | |
| | 100:10 calculated monthly? | | |
| | 100:11 A. Yes. | | |
| | 100:12 Q. Did General Mills ever enter into | | |
| | 100:13 contracts for fixed prices based on market pricing | | |
| | 100:14 that's been more than a month? | | |
| | 100:15 A. No. Our suppliers -- our suppliers | | |
| | 100:16 would generally want monthly price movements. | | |
| 113:03 - 113:16 | Tran, Binh 2013-08-13 | 00:00:41 | Tran_10-31-23_10 20.19 |
| | 113:03 Q. Do you know how the Urner Barry quotes | | |
| | 113:04 are derived? | | |
| | 113:05 A. No, I don't. I don't have insight as to | | |
| | 113:06 how Urner Barry comes up with their prices. | | |
| | 113:07 Q. Do you know what factors Urner Barry | | |
| | 113:08 looks at to determine its quote? | | |
| | 113:09 A. When you say factors, what factors -- | | |
| | 113:10 could you give some examples? | | |
| | 113:11 Q. What Urner -- what numbers or what data | | |
| | 113:12 points Urner Barry incorporates to determine its | | |
| | 113:13 price quote. | | |
| | 113:14 A. No. I don't know how they arrive at | | |
| | 113:15 their price quotes or how they build it or their | | |

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|-----------------|--|----------|---------------------------|
| | 113:16 models that they use. | | |
| 113:17 - 113:22 | Tran, Binh 2013-08-13 | 00:00:27 | Tran_10-31-23_10 20.20 |
| | 113:17 Q. Do you know if demand for eggs or egg | | |
| | 113:18 products is a factor that they rely on? | | |
| | 113:19 A. I would only be speculating in how they | | |
| | 113:20 arrive at that. You know, I guess Economics 101 | | |
| | 113:21 would say supply and demand, you know, impacts | | |
| | 113:22 prices. | | |
| 115:15 - 115:17 | Tran, Binh 2013-08-13 | 00:00:08 | Tran_10-31-23_10 20.21 |
| | 115:15 Q. Does the supply or demand for eggs | | |
| | 115:16 affect the Urner Barry quote? | | |
| | 115:17 A. Yeah, it does. | | |
| 115:22 - 116:06 | Tran, Binh 2013-08-13 | 00:00:28 | Tran_10-31-23_10 20.22 |
| | 115:22 Q. In any knowledgeable sense? | | |
| | 116:01 A. No. Not a detailed knowledge sense, | | |
| | 116:02 because we don't know how Urner Barry builds their | | |
| | 116:03 prices and how they quote those prices. Urner | | |
| | 116:04 Barry is not a transparent market like you would | | |
| | 116:05 find in the Chicago Board of Trade or the New York | | |
| | 116:06 Stock Exchange. | | |
| 116:07 - 117:18 | Tran, Binh 2013-08-13 | 00:01:32 | Tran_10-31-23_10 20.23 |
| | 116:07 Q. Now, we talked about market-based | | |
| | 116:08 pricing. Are there other ways that the price paid | | |
| | 116:09 by General Mills can be negotiated? | | |
| | 116:10 A. What you mean "other ways"? | | |
| | 116:11 Q. Well, market-based pricing, as you | | |
| | 116:12 defined it, incorporates an Urner Barry quote; is | | |
| | 116:13 that right? | | |
| | 116:14 A. That's correct. | | |
| | 116:15 Q. Has General Mills ever paid a price for | | |
| | 116:16 eggs or egg products that does not involve an Urner | | |
| | 116:17 Barry quote? | | |
| | 116:18 A. Yes, we have. | | |
| | 116:19 Q. And what do you refer to that type of | | |
| | 116:20 pricing as? | | |
| | 116:21 A. We would use things like cost-plus | | |
| | 116:22 models, grain-based models to purchase our eggs | | |
| | 117:01 also. | | |
| | 117:02 Q. And has General Mills ever purchased | | |

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| | 117:03 eggs or egg products using cost-plus or grain-based | | |
| | 117:04 pricing models? | | |
| | 117:05 A. Yes. We have. | | |
| | 117:06 Q. When has that occurred? | | |
| | 117:07 A. We started that in about 2008. | | |
| | 117:08 Q. And tell me about that pricing model. | | |
| | 117:09 What terms are used to arrive at the price that | | |
| | 117:10 General Mills ultimately pays? | | |
| | 117:11 A. We would use grain, namely corn and | | |
| | 117:12 soybean meal, as a basis for our prices and there | | |
| | 117:13 would be a formula that would then convert that | | |
| | 117:14 into a egg price. | | |
| | 117:15 Q. So the price paid for egg products would | | |
| | 117:16 vary depending on the price of corn or soybean; is | | |
| | 117:17 that right? | | |
| | 117:18 A. That's correct. Yup. | | |
| 117:19 - 118:04 | Tran, Binh 2013-08-13 | 00:00:16 | Tran_10-31-23_10 20.24 |
| | 117:19 Q. Are there any other components that | | |
| | 117:20 would go into the price that's paid by General | | |
| | 117:21 Mills? | | |
| | 117:22 A. Into the dried component, there would | | |
| | 118:01 be. There would be a natural gas component for the | | |
| | 118:02 drying cost. | | |
| | 118:03 Q. Anything else? | | |
| | 118:04 A. No. | | |
| 119:06 - 120:18 | Tran, Binh 2013-08-13 | 00:01:52 | Tran_10-31-23_10 20.25 |
| | 119:06 Q. Who decides -- or who makes decisions | | |
| | 119:07 related to the procurement of egg products at | | |
| | 119:08 General Mills? | | |
| | 119:09 A. The buyer would. | | |
| | 119:10 Q. And you served as the buyer for about | | |
| | 119:11 six years; is that right? | | |
| | 119:12 A. On eggs, it was about three directly. | | |
| | 119:13 Q. And who does the buyer for eggs report | | |
| | 119:14 to? | | |
| | 119:15 A. The buyer would report to either -- | | |
| | 119:16 generally, it would be a manager. A sourcing | | |
| | 119:17 manager. | | |
| | 119:18 Q. Does that sourcing manager have ultimate | | |
| | 119:19 decision-making power related to the procurement of | | |

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| | 119:20 eggs? | | |
| | 119:21 A. They have accountability for it. So | | |
| | 119:22 they could veto, you know, a decision. But that | | |
| | 120:01 doesn't happen very often. Usually it's the buyer | | |
| | 120:02 that has the decision making. The only time that | | |
| | 120:03 the manager would veto or step in would be if there | | |
| | 120:04 is ethical issues that the buyer has, you know, in | | |
| | 120:05 a decision. | | |
| | 120:06 Q. And who does the manager report to? | | |
| | 120:07 A. They would report to a sourcing | | |
| | 120:08 director. | | |
| | 120:09 Q. Does the sourcing director ever have any | | |
| | 120:10 input into egg procurement decisions? | | |
| | 120:11 A. Again, from a decision-making | | |
| | 120:12 standpoint, only if there needed to be, because | | |
| | 120:13 there was, you know, issues, either ethical issues | | |
| | 120:14 or, you know, the buyer's decisions put the company | | |
| | 120:15 at risk. | | |
| | 120:16 Q. So generally speaking, the buyer makes | | |
| | 120:17 these decisions, right? | | |
| | 120:18 A. That's right. | | |
| 121:04 - 121:07 | Tran, Binh 2013-08-13 | 00:00:21 | Tran_10-31-23_10 |
| | 121:04 Q. And when did you serve as the | | 20.26 |
| | 121:05 buyer for eggs? | | |
| | 121:06 A. 2008. Yeah. Late 2007, 2008, to 2010 | | |
| | 121:07 approximately. | | |
| 135:06 - 135:07 | Tran, Binh 2013-08-13 | 00:00:04 | Tran_10-31-23_10 |
|  821.1.2 | 135:06 Q. I'll show you what's been marked as | | 20.27 |
| | 135:07 Exhibit 13. | | |
| 137:09 - 138:03 | Tran, Binh 2013-08-13 | 00:00:59 | Tran_10-31-23_10 |
| | 137:09 Q. And this lists General Mills' egg | | 20.28 |
| | 137:10 purchases beginning in the year 2000. Do you see | | |
| | 137:11 that? | | |
| | 137:12 A. Yes, I do. | | |
| | 137:13 Q. Do you know how this information was | | |
| | 137:14 determined? | | |
| | 137:15 A. This was probably pulled from our | | |
| | 137:16 archives, our SAP archives. | | |
| | 137:17 Q. And how does this differ -- how does the | | |
| | 137:18 SAP archive differ from the database that was used | | |

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| | 137:19 to create the spreadsheet that's labeled as | | |
| | 137:20 Exhibit 2? | | |
| | 137:21 A. Exhibit 2 is from our active database, | | |
| | 137:22 our active ERP system. So, you know, anything that | | |
| | 138:01 is archived would be premerger, and that's | | |
| | 138:02 basically filed away somewhere and, you know, you'd | | |
| | 138:03 have to have some special access to get to it. | | |
| 145:18 - 145:19 | Tran, Binh 2013-08-13 | 00:00:04 | Tran_10-31-23_10 |
|  651.1.1 | 145:18 Q. I'll show you what's been marked as | | 20.29 |
| | 145:19 Exhibit 14. | | |
| 146:08 - 147:05 | Tran, Binh 2013-08-13 | 00:00:50 | Tran_10-31-23_10 |
|  651.1.2 | 146:08 Q. Mr. Tran, do you recognize Exhibit 14? | | 20.30 |
| | 146:09 A. Yeah. It looks like a pricing quote. | | |
| | 146:10 Q. Is this a pricing quote from M.G. | | |
| | 146:11 Wallbaum Company? | | |
| | 146:12 A. Yes. | | |
| | 146:13 Q. And is that part of Michael Foods? | | |
| | 146:14 A. Yes, it is. | | |
| | 146:15 Q. Does this pricing quote on page 1 apply | | |
| | 146:16 to the period of July 2001 through September of | | |
| | 146:17 2001? | | |
|  651.2 | 146:18 A. Yes, it does. | | |
|  651.2.1 | 146:19 Q. And on page 2 from October of 2001 | | |
| | 146:20 through December 2001? | | |
| | 146:21 A. Yes. | | |
| | 146:22 Q. And at the top these are called | | |
| | 147:01 grain-based pricing quotes for General Mills. Do | | |
| | 147:02 you see that? | | |
| | 147:03 A. Yup. | | |
| | 147:04 Q. Did General Mills receive grain based | | |
| | 147:05 pricing quotes from M.G. Wallbaum company in 2001? | | |
| 147:06 - 147:22 | Tran, Binh 2013-08-13 | 00:01:16 | Tran_10-31-23_10 |
| | 147:06 A. Yes. There was grain -- there was grain | | 20.31 |
| | 147:07 referenced in these prices. But the tie between | | |
| | 147:08 grains and ultimately the eggs continually shifted. | | |
| | 147:09 All right? So that wasn't always static. So there | | |
| | 147:10 wasn't a cost-plus component to it. But although | | |
| | 147:11 they reference grain markets in there there wasn't | | |
| | 147:12 a -- there wasn't a true correlation. | | |
| | 147:13 Q. You're saying that grain-based pricing | | |

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| | 147:14 quote by M.G. Wallbaum Company was not a pricing | | |
| | 147:15 quote that was based on grain? | | |
| | 147:16 A. There was a grain component to it but | | |
| | 147:17 you still had -- you know, you still had the | | |
| | 147:18 factors -- the conversion factors of it still | | |
| | 147:19 moved. So the cost-plus component of it was not in | | |
| | 147:20 this. | | |
| | 147:21 Q. Was this quote based on Urner Barry | | |
| | 147:22 market pricing? | | |
| 148:01 - 148:17 | Tran, Binh 2013-08-13 | 00:01:09 | Tran_10-31-23_10 |
| | 148:01 A. It wouldn't appear as such. | | 20.32 |
|  Clear | 148:02 Q. So did General Mills have the | | |
| | 148:03 opportunity prior to 2008 to purchase eggs under a | | |
| | 148:04 pricing formula that did not involve Urner Barry | | |
| | 148:05 pricing? | | |
| | 148:06 A. Yeah. We had -- well, from this it | | |
| | 148:07 looks like we had quotes out there from it. So we | | |
| | 148:08 had offers. | | |
| | 148:09 Q. And General Mills -- did General Mills | | |
| | 148:10 accept this offer? | | |
| | 148:11 A. At 2001 I'm not entirely certain. I | | |
| | 148:12 don't know. | | |
| | 148:13 Q. So can you state affirmatively that | | |
| | 148:14 2008 -- between 1999 and 2008 General Mills did not | | |
| | 148:15 purchase egg products based off of a pricing quote | | |
| | 148:16 that did not include Urner Barry? | | |
| | 148:17 A. I can't say for certain. | | |
| 148:18 - 148:18 | Tran, Binh 2013-08-13 | 00:00:03 | Tran_10-31-23_10 |
| | 148:18 Q. Okay. If you turn back to Exhibit 13 at | | 20.33 |
| 148:19 - 149:06 | Tran, Binh 2013-08-13 | 00:00:35 | Tran_10-31-23_10 |
| | 148:19 the bottom of page 5 during the period covered by | | 20.34 |
| | 148:20 the complaint "it did not" -- it being General | | |
| | 148:21 Mills -- "did not make egg purchases from | | |
| | 148:22 defendants based at prices each supplier set that | | |
| | 149:01 were not based, in whole or in part, on an Urner | | |
| | 149:02 Barry price quotation." | | |
| | 149:03 A. Mm-hmm. | | |
| | 149:04 Q. And we talked about Exhibit 14 from M.G. | | |
| | 149:05 Wallbaum that is a part of Michael Foods, right? | | |
| | 149:06 A. Yup. | | |

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| 149:10 - 149:16 | Tran, Binh 2013-08-13 149:10 Q. Is the sentence that I just read to you 149:11 from Exhibit 13 accurate? 149:12 A. To my knowledge it is. This -- your 149:13 Exhibit 14, I am not certain if this offer was 149:14 accepted. 149:15 Q. So it might be accurate; it might be 149:16 inaccurate? | 00:00:23 | Tran_10-31-23_10 20.35 |
| 149:19 - 150:03 | Tran, Binh 2013-08-13 149:19 Q. You don't know whether it's accurate? 149:20 A. I can't say that. To my knowledge this 149:21 is accurate. 149:22 Q. Did you Exhibit 14 -- you have no 150:01 knowledge of what resulted from the price quote 150:02 laid out in Exhibit 14; is that right? 150:03 A. I don't have any knowledge of that. | 00:00:21 | Tran_10-31-23_10 20.36 |
| 150:04 - 150:08 | Tran, Binh 2013-08-13 150:04 Q. To your knowledge at any point in time 150:05 did General Mills purchase from Michael Foods under 150:06 a price quote that did not involve Urner Barry 150:07 pricing? 150:08 A. No. Not to my knowledge. | 00:00:27 | Tran_10-31-23_10 20.37 |
| 150:09 - 150:14  D3.1 | Tran, Binh 2013-08-13 150:09 Q. I'll show you what's been marked 150:10 as Exhibit 15. 150:11 (Tran Exhibit 15 was 150:12 marked for 150:13 identification.) 150:14 BY MR. DAVIS: | 00:00:03 | Tran_10-31-23_10 20.38 |
| 150:15 - 151:13 | Tran, Binh 2013-08-13 150:15 Q. Exhibit 15 is not dated on its face. I 150:16 will represent to you that the metadata associated 150:17 with it indicates that it is likely from either 150:18 2001 or 2003. But I will ask you if you have any 150:19 ability to date this document given the information 150:20 that's laid out in it? 150:21 A. No, I couldn't date it. 150:22 Q. It is single sourced with Michael Foods. 151:01 Do you see that line? | 00:01:12 | Tran_10-31-23_10 20.39 |

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| | 151:02 A. Yup. | | |
| | 151:03 Q. What does that mean to you? | | |
| | 151:04 A. That means all of our purchases came | | |
| | 151:05 from Michael Foods. So there wouldn't be any other | | |
| | 151:06 suppliers. | | |
| | 151:07 Q. And did that circumstance ever exist? | | |
| | 151:08 A. Early on it did. But I've heard of -- | | |
| | 151:09 I've heard of it probably in the '90s. | | |
| | 151:10 Q. The fourth bullet point says "Pricing is | | |
| | 151:11 determined using a grain-based formula." Do you | | |
| | 151:12 see that? | | |
| | 151:13 A. Yes. | | |
| 151:20 - 152:07 | Tran, Binh 2013-08-13 | 00:00:26 | Tran_10-31-23_10 20.40 |
| | 151:20 Q. Are you aware of General Mills ever | | |
| | 151:21 purchasing under a grain-based formula that also | | |
| | 151:22 incorporated Urner Barry pricing? | | |
|  Clear | 152:01 A. I'm not aware of any. | | |
| | 152:02 Q. So to the best of your knowledge -- | | |
| | 152:03 A. Yes. | | |
| | 152:04 Q. -- General Mills' purchases under a | | |
| | 152:05 grain-based formula were ones that did not | | |
| | 152:06 including Urner Barry pricing; is that right? | | |
| | 152:07 A. That's correct. | | |
| 152:08 - 152:10 | Tran, Binh 2013-08-13 | 00:00:11 | Tran_10-31-23_10 20.41 |
| | 152:08 Q. Okay. Did General Mills receive any | | |
| | 152:09 proposals to purchase egg products under | | |
| | 152:10 grain-based contracts prior to 2008? | | |
| 152:11 - 152:18 | Tran, Binh 2013-08-13 | 00:00:21 | Tran_10-31-23_10 20.42 |
| | 152:11 A. Can you ask that question again? | | |
| | 152:12 Q. Aside from the M.G. Wallbaum instance -- | | |
| | 152:13 A. Mm-hmm. | | |
| | 152:14 Q. -- or instances, as they were, did | | |
| | 152:15 General Mills receive any other proposals to be | | |
| | 152:16 supplied with egg products under grain-based | | |
| | 152:17 contracts prior to 2008? | | |
| | 152:18 A. Not to my knowledge. | | |
| 152:19 - 154:10 | Tran, Binh 2013-08-13 | 00:01:56 | Tran_10-31-23_10 20.43 |
| | 152:19 Q. You testified earlier that General Mills | | |
| | 152:20 would attempt to purchase egg products on a | | |

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| | 152:21 seasonal basis when possible; is that right? | | |
| | 152:22 A. Yes. | | |
| | 153:01 Q. And was that true for all of General | | |
| | 153:02 Mills' egg product or only certain ones? | | |
| | 153:03 A. It was dependent on what we could get. | | |
| | 153:04 So, you know, it might have been dried eggs or | | |
| | 153:05 liquid eggs. It depended on the suppliers' | | |
| | 153:06 willingness to go out further. | | |
| | 153:07 Q. And how long could General Mills store | | |
| | 153:08 egg products that it purchased? | | |
| | 153:09 A. Dry eggs can generally be stored maybe | | |
| | 153:10 about six months at the most. Liquids it was very | | |
| | 153:11 short shelf life. Maybe a month or so. | | |
| | 153:12 Q. And obviously General Mills didn't | | |
| | 153:13 purchase shell eggs, but fair to say you can't | | |
| | 153:14 store shell eggs for six months? | | |
| | 153:15 A. No. You couldn't store shell eggs. | | |
| | 153:16 Q. So the ability to purchase seasonally | | |
| | 153:17 depends at least in part on the types of eggs or | | |
| | 153:18 egg products that the purchaser is buying, right? | | |
| | 153:19 A. That's correct. | | |
| | 153:20 Q. And to the extent that you're buying | | |
| | 153:21 dried products which you can store for a longer | | |
| | 153:22 period of time, you can try to take greater | | |
| | 154:01 advantage of seasonal price variations; is that | | |
| | 154:02 fair? | | |
| | 154:03 A. You could if there's an opportunity, | | |
| | 154:04 yeah. | | |
| | 154:05 Q. But it's easier to do it with a dried | | |
| | 154:06 product than a liquid product; is that right? | | |
| | 154:07 A. That's right. | | |
| | 154:08 Q. And it's easier to do it with a liquid | | |
| | 154:09 product than a shell egg, right? | | |
| | 154:10 A. That's correct. | | |
| 154:11 - 154:12 | Tran, Binh 2013-08-13 | 00:00:04 | Tran_10-31-23_10 |
|  D21.1 | 154:11 Q. I'll show you what's been marked as | | 20.44 |
| | 154:12 Exhibit 16. | | |
| 154:13 - 155:03 | Tran, Binh 2013-08-13 | 00:00:23 | Tran_10-31-23_10 |
| | 154:13 (Tran Exhibit 16 was | | 20.45 |
| | 154:14 marked for | | |

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| | 154:15 identification.) | | |
| | 154:16 BY MR. DAVIS: | | |
| | 154:17 Q. This is a very brief question. Do you | | |
| | 154:18 recognize Exhibit 16? | | |
| | 154:19 A. Yup. I do. | | |
|  D21.4 | 154:20 Q. If you turn to page -- the page that | | |
| | 154:21 ends in Bates number 971, you'll see this document | | |
| | 154:22 is not signed. | | |
| | 155:01 A. Mm-hmm. | | |
| | 155:02 Q. Do you know whether a signed version of | | |
| | 155:03 this document exists at General Mills? | | |
| 155:04 - 155:15 | Tran, Binh 2013-08-13 | 00:00:37 | Tran_10-31-23_10 20.46 |
| | 155:04 A. I'm not sure if it does. | | |
| | 155:05 Q. If it did, do you know where it would | | |
| | 155:06 exist? | | |
| | 155:07 A. It would be in with our legal group, a | | |
| | 155:08 signed document. | | |
|  D21.5.1 | 155:09 Q. And if you turn to the page that ends in | | |
| | 155:10 972 on to 973 -- | | |
| | 155:11 A. Mm-hmm. | | |
| | 155:12 Q. -- do you know whether the terms that | | |
| | 155:13 are reflected on these pages are the terms that | | |
| | 155:14 were ultimately agreed upon between General Mills | | |
| | 155:15 and Primera? | | |
| 155:16 - 155:20 | Tran, Binh 2013-08-13 | 00:00:22 | Tran_10-31-23_10 20.47 |
| | 155:16 A. Yeah. I think that, you know, starting | | |
| | 155:17 in a -- I believe it was after 2000 -- it was | | |
| | 155:18 ultimately after 2009, you know, maybe middle of | | |
| | 155:19 2009, that this pricing mechanism with Primera was | | |
| | 155:20 enacted. | | |
| 155:21 - 156:04 | Tran, Binh 2013-08-13 | 00:00:06 | Tran_10-31-23_10 20.48 |
|  D16.1 | 155:21 Q. You can put that aside. I'll show you | | |
| | 155:22 what's been marked as Exhibit 17. | | |
| | 156:01 (Tran Exhibit 17 was | | |
| | 156:02 marked for | | |
| | 156:03 identification.) | | |
| | 156:04 BY MR. DAVIS: | | |
| 156:05 - 156:07 | Tran, Binh 2013-08-13 | 00:00:15 | Tran_10-31-23_10 20.49 |
| | 156:05 Q. Exhibit 17 is a Power Point presentation | | |

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|  D16.3 | 156:06 from April 2008. And my question for you is about 156:07 the third page that ends in 1002. This talks about | | |
| 156:08 - 157:10 | Tran, Binh 2013-08-13 | 00:01:28 | Tran_10-31-23_10 |
|  D16.3 | 156:08 "The Rembrandt deal came at the optimal time for 156:09 value creation." Do you see that heading? 156:10 A. Mm-hmm. 156:11 Q. What is the Rembrandt deal? 156:12 A. The Rembrandt deal is a cost-plus grain 156:13 model that we had put in place with them, with 156:14 Rembrandt, which also included a longer term supply 156:15 agreement. And ultimately the value creation that 156:16 we got out of it was huge cost savings. 156:17 Q. And the first point says "Identified a 156:18 changing industry structure." And under that, 156:19 "Industry moving from excess capacity to under 156:20 capacity." 156:21 A. Mm-hmm. 156:22 Q. Right? 157:01 So did General Mills track the capacity 157:02 of the egg market? 157:03 A. Oh. You could see those things in like 157:04 Urner Barry reports and USDA reports. So we didn't 157:05 do the tracking but other reporting agencies did. 157:06 Q. And when General Mills recognized that 157:07 the industry was moving from excess capacity to 157:08 under capacity it accepted an opportunity to 157:09 purchase under a model that did not take the supply 157:10 of the egg market into account; is that right? | | 20.50 |
| 157:11 - 157:13 | Tran, Binh 2013-08-13 | 00:00:14 | Tran_10-31-23_10 |
| | 157:11 A. It was one of the factors -- it was an 157:12 environmental factor that was part of our decision. 157:13 But it was not the sole factor. | | 20.51 |
| 157:14 - 157:15 | Tran, Binh 2013-08-13 | 00:00:05 | Tran_10-31-23_10 |
|  D16.5 | 157:14 Q. If you turn to the page that ends in 157:15 1004, it says that "The growth is slowing due to | | 20.52 |
| 157:16 - 160:06 | Tran, Binh 2013-08-13 | 00:02:29 | Tran_10-31-23_10 |
| | 157:16 structural changes in the industry." Do you see 157:17 that? 157:18 A. Mm-hmm. | | 20.53 |

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| 157:19 | Q. And from this chart it looks like the | | |
| 157:20 | growth -- this is in the egg industry, correct? | | |
| 157:21 | A. Mm-hmm. | | |
| 157:22 | Q. The growth is greater than 2 percent. | | |
| 158:01 | From this chart it looks like up until 2006. And | | |
| 158:02 | then it levels out to less than 1 percent. Is that | | |
| 158:03 | fair? | | |
| 158:04 | A. Mm-hmm. | | |
| 158:05 | Q. Yes? | | |
| 158:06 | A. Yes. | | |
| 158:07 | Q. And this chart poses the question as to | | |
| 158:08 | why the growth is slowing. Do you see that? | | |
| 158:09 | A. Yes. | | |
| 158:10 | Q. And "Investment dollars to other | | |
| 158:11 | sectors - ethanol is listed as one reason," right? | | |
| 158:12 | A. That's right. | | |
| 158:13 | Q. What does that mean? | | |
| 158:14 | A. Well, it just means that people aren't | | |
| 158:15 | making money -- people have better places where | | |
| 158:16 | they can get a return on their money. So investors | | |
| 158:17 | or business people, businesses in general, will | | |
| 158:18 | build an ethanol plant versus building egg-laying | | |
| 158:19 | hen facilities. | | |
| 158:20 | Q. And that's a reason why the growth of | | |
| 158:21 | the egg industry would slow beginning in, according | | |
| 158:22 | to General Mills, 2006; is that right? | | |
| 159:01 | A. Yeah. It could be a contributing | | |
| 159:02 | factor, yeah. | | |
| 159:03 | Q. As could tighter environmental | | |
| 159:04 | restrictions; is that right? | | |
| 159:05 | A. It's a -- yeah, those are possibilities. | | |
| 159:06 | Q. As is high corn costs and lower supply; | | |
| 159:07 | is that right? | | |
| 159:08 | A. That's right. | | |
| 159:09 | Q. Those are all possibilities why growth | | |
| 159:10 | of the egg industry would slow; is that right? | | |
| 159:11 | A. That's correct. | | |
| 159:12 | Q. And is that something that's unique to | | |
| 159:13 | any specific time period or are those factors that | | |
| 159:14 | could weigh in at any point in time that would slow | | |
| 159:15 | growth in the egg industry? | | |

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| | <p>159:16 A. Those could weigh in at any point in</p> <p>159:17 time. I mean, if you have higher corn costs, which</p> <p>159:18 means less margins for the producers, they're not</p> <p>159:19 going to spend their money on expanding their</p> <p>159:20 capacity or expanding, you know, production. So</p> <p>159:21 any of those things could hit at any time.</p> <p>159:22 Q. And it would cause growth in the egg</p> <p>160:01 industry to slow, right?</p> <p>160:02 A. That's correct.</p> <p>160:03 Q. And potentially cause supply in the egg</p> <p>160:04 industry to level out or slow or even decrease; is</p> <p>160:05 that right?</p> <p>160:06 A. Yes.</p> | | |
| 160:07 - 160:12 | Tran, Binh 2013-08-13 | 00:00:05 | Tran_10-31-23_10 |
|  D11.1 | <p>160:07 Q. I'll show you what's been marked as</p> <p>160:08 Exhibit 18. You can put that aside.</p> <p>160:09 (Tran Exhibit 18 was</p> <p>160:10 marked for</p> <p>160:11 identification.)</p> <p>160:12 BY MR. DAVIS:</p> | | 20.54 |
| 160:13 - 160:18 | Tran, Binh 2013-08-13 | 00:00:09 | Tran_10-31-23_10 |
| | <p>160:13 Q. Exhibit 18 is a Power Point entitled egg</p> <p>160:14 pricing strategies from June of 2007; is that</p> <p>160:15 right?</p> <p>160:16 A. Mm-hmm.</p> <p>160:17 Q. Yes.</p> <p>160:18 A. Yes.</p> | | 20.55 |
| 163:04 - 163:19 | Tran, Binh 2013-08-13 | 00:00:51 | Tran_10-31-23_10 |
|  D11.17 | <p>163:04 Q. And it says at the top, "Atkins diet</p> <p>163:05 fad." Do you see that?</p> <p>163:06 A. Yes.</p> <p>163:07 Q. Do you know what that's referring to?</p> <p>163:08 A. The Atkins diet was a diet that favored</p> <p>163:09 lots of proteins and zero carbohydrates. So things</p> <p>163:10 like eggs and meat products were highly consumed.</p> <p>163:11 So the diet basically said that you could eat as</p> <p>163:12 much protein as you want, just cut out the carbs.</p> <p>163:13 Q. And so did the Atkins diet increase the</p> <p>163:14 demand for eggs in the 2003/2004 time period?</p> <p>163:15 A. Yes.</p> | | 20.56 |

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| | 163:16 Q. And did that result in an increased 163:17 price for eggs? 163:18 A. Yes. It was a contributing factor to, 163:19 you know, the prices of eggs. | | |
| 163:20 - 163:22 | Tran, Binh 2013-08-13 163:20 Q. Was it a substantial contributing 163:21 factor? 163:22 A. That I don't know. | 00:00:04 | Tran_10-31-23_10 20.57 |
| 168:01 - 169:02 | Tran, Binh 2013-08-13 168:01 We had spoken about the effect of the 168:02 Atkins diet on demand for eggs and the subsequent 168:03 effect on the price of eggs. Were there other 168:04 factors that would affect the price of -- the 168:05 supply or demand for eggs and therefore the price 168:06 of eggs? 168:07 A. Yeah. You could have disease outbreaks. 168:08 You could have weather issues. You know. And 168:09 maybe holidays, you know, could affect the prices. 168:10 Q. How about feed costs? Would that be a 168:11 factor? 168:12 A. Feed costs would be a factor. 168:13 Q. Energy costs, would that be a factor? 168:14 A. To a lesser degree. Maybe on the 168:15 drying, the dried egg side, it would be a factor. 168:16 Q. You've been handed what's been marked as 168:17 Exhibit 19. And this is a March 2007 presentation. 168:18 If you'll turn to the page that's marked at the 168:19 bottom -- it ends with 141. It says at the top 168:20 "Egg industry profitability, 2001 to 2006." 168:21 A. Mm-hmm. 168:22 Q. And would you agree here that the egg 169:01 industry was not profitable during this period 169:02 except for the 2003 to 2004 period? | 00:01:35 | Tran_10-31-23_10 20.58 |
|  515.1.1 | 168:16 Q. You've been handed what's been marked as 168:17 Exhibit 19. And this is a March 2007 presentation. 168:18 If you'll turn to the page that's marked at the 168:19 bottom -- it ends with 141. It says at the top 168:20 "Egg industry profitability, 2001 to 2006." 168:21 A. Mm-hmm. 168:22 Q. And would you agree here that the egg 169:01 industry was not profitable during this period 169:02 except for the 2003 to 2004 period? | | |
|  515.6 | | | |
| 169:08 - 170:06 | Tran, Binh 2013-08-13 169:08 Q. Do you agree that's what this chart 169:09 shows? 169:10 A. That's what the chart would show. 169:11 Q. And do you have any reason to think that 169:12 this chart is not correct? 169:13 A. Possibly. | 00:00:53 | Tran_10-31-23_10 20.59 |

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| | 169:14 Q. And what's that reason? | | |
| | 169:15 A. Oh. Because this is an average, so I | | |
| | 169:16 couldn't say that this is across the board what | | |
| | 169:17 everybody -- if everybody is profitable or | | |
| | 169:18 unprofitable because they would all have different | | |
| | 169:19 cost structures and different efficiencies in their | | |
| | 169:20 operation. | | |
| | 169:21 Q. Right. And so what -- one producer's | | |
| | 169:22 profitability is not necessarily another producer's | | |
| | 170:01 profitability; is that right? | | |
| | 170:02 A. That's right. | | |
| | 170:03 Q. And what might make sense for one | | |
| | 170:04 producer to do is not necessarily the right | | |
| | 170:05 decision for another producer; is that right? | | |
| | 170:06 A. That's correct. | | |
| 173:05 - 173:10 | Tran, Binh 2013-08-13 | 00:00:03 | Tran_10-31-23_10 |
|  D13.1 | 173:05 Q. I'll show you what's been marked as | | 20.60 |
| | 173:06 Exhibit 21. | | |
| | 173:07 (Tran Exhibit 21 was | | |
| | 173:08 marked for | | |
| | 173:09 identification.) | | |
| | 173:10 BY MR. DAVIS: | | |
| 173:11 - 173:16 | Tran, Binh 2013-08-13 | 00:00:20 | Tran_10-31-23_10 |
| | 173:11 Q. This is a presentation from March of | | 20.61 |
| | 173:12 2007. | | |
| | 173:13 A. You mean October? | | |
| | 173:14 Q. I do mean October. I apologize. | | |
| | 173:15 October of 2007. If you turn to the page that ends | | |
|  D13.8 | 173:16 in 1160, "U.S. is seeing new export demand from | | |
| 173:16 - 174:21 | Tran, Binh 2013-08-13 | 00:01:13 | Tran_10-31-23_10 |
| | 173:16 in 1160, "U.S. is seeing new export demand from | | 20.62 |
| | 173:17 Europe and Asia." Do you see that? | | |
| | 173:18 A. Yes. | | |
| | 173:19 Q. And this lists a number of reasons why | | |
| | 173:20 the United States is seeing new export demand from | | |
| | 173:21 Europe and Asia. They include "U.S. shell egg | | |
| | 173:22 exports have doubled in the last year." "Stricter | | |
| | 174:01 animal welfare laws in Europe." Do you see that? | | |
| | 174:02 A. Mm-hmm. Yes. | | |
| | 174:03 Q. "High energy costs encourage export | | |

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| | 174:04 shipments of high value products like eggs instead | | |
| | 174:05 of corn or meal." Do you see that? | | |
| | 174:06 A. Yes. | | |
| | 174:07 Q. "Bird flu concerns continue. Recently | | |
| | 174:08 found in Germany." Do you see that line? | | |
| | 174:09 A. Yes. | | |
| | 174:10 Q. And "Currency benefits; weak dollar." | | |
| | 174:11 Do you see that? | | |
| | 174:12 A. Yes. | | |
| | 174:13 Q. Are these all reasons why U.S. producers | | |
| | 174:14 may choose to export their product? | | |
| | 174:15 A. Yeah. They're contributing factors for | | |
| | 174:16 them to make a decision. | | |
| | 174:17 Q. And they're all factors that may lead a | | |
| | 174:18 U.S. egg producer to conclude that it's in its | | |
| | 174:19 interests to export eggs to Europe or Asia; is that | | |
| | 174:20 right? | | |
| | 174:21 A. Yes. | | |
|  Clear | | | |
| 181:21 - 182:16 | Tran, Binh 2013-08-13 | 00:00:50 | Tran_10-31-23_10 20.63 |
| | 181:21 Q. ... is it your testimony that no supplier | | |
| | 181:22 of egg products to General Mills ever was willing | | |
| | 182:01 to negotiate the price that was paid by General | | |
| | 182:02 Mills for its products? | | |
| | 182:03 A. Not for the base price of what was | | |
| | 182:04 quoted off of Urner Barry. The only pieces that | | |
| | 182:05 were really being -- that we could negotiate is the | | |
| | 182:06 freight component and the packaging component. But | | |
| | 182:07 otherwise the base price that was set by Urner | | |
| | 182:08 Barry was really non-negotiable. | | |
| | 182:09 Q. The only part of a price quote that was | | |
| | 182:10 negotiable was the freight price and the packaging | | |
| | 182:11 cost? Is that what you said? | | |
| | 182:12 A. That's right. | | |
| | 182:13 Q. And General Mills was never able to | | |
| | 182:14 successfully negotiate any other pricing terms | | |
| | 182:15 other than those two terms; is that your testimony? | | |
| | 182:16 A. That's correct. | | |
| 183:01 - 183:01 | Tran, Binh 2013-08-13 | 00:00:04 | Tran_10-31-23_10 20.64 |
|  D1227.1 | 183:01 Q. Do you recognize Exhibit 23? | | |
| 183:02 - 183:22 | Tran, Binh 2013-08-13 | 00:00:50 | Tran_10-31-23_10 |

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|  D1227.1.1 | 183:02 A. It looks like a cost savings, a cost | | 20.65 |
| | 183:03 savings project sheet. | | |
| | 183:04 Q. Do you know who would compile a document | | |
| | 183:05 like this? | | |
| | 183:06 A. This could be our R&D, an R&D engineer | | |
| | 183:07 or a buyer. | | |
| | 183:08 Q. So in the first entry, completed | | |
| | 183:09 projects, it says "cost reduction from M.G. | | |
| | 183:10 Waldbaum." Do you see that? | | |
| | 183:11 A. Mm-hmm. Yes, I do. | | |
| | 183:12 Q. And then status, next steps, it says "31 | | |
| | 183:13 cents per pound or 20 cents per case"? Is that | | |
| | 183:14 what CS means? | | |
| | 183:15 A. Yes. | | |
| | 183:16 Q. "20 cents per case savings as a result | | |
| | 183:17 of current supplier lowering price when we began to | | |
| | 183:18 search for a new supplier." Do you see that line? | | |
| | 183:19 A. Yes. | | |
| | 183:20 Q. It says that the annual savings | | |
| | 183:21 opportunity was \$400,000. Do you see that? | | |
| | 183:22 A. Yes. | | |
| 184:01 - 186:04 | Tran, Binh 2013-08-13 | 00:02:18 | Tran_10-31-23_10 |
| | 184:01 Q. And under estimated timeline it says | | 20.66 |
| | 184:02 "complete." Do you see that? | | |
| | 184:03 A. Yes. | | |
| | 184:04 Q. Do you know whether General Mills | | |
| | 184:05 received a cost reduction from M.G. Waldbaum equal | | |
| | 184:06 to \$400,000? | | |
| | 184:07 A. Based on this spreadsheet, yeah. | | |
| | 184:08 Q. And how would that negotiation have | | |
| | 184:09 transpired? | | |
| | 184:10 A. The negotiation, the -- you know, in | | |
| | 184:11 very simplistic terms it could have been R&D and | | |
| | 184:12 the buyer going together and saying, hey, Michael | | |
| | 184:13 Foods, how do I make my costs lower. Let's come up | | |
| | 184:14 with ideas. | | |
| | 184:15 And then we would go back and forth and | | |
| | 184:16 it probably nets out somewhere they're asking | | |
| | 184:17 about -- you know, in this case it could have -- | | |
| | 184:18 you know, it could have come out of their packaging | | |

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| | 184:19 cost or it could have moved their production from | | |
| | 184:20 one facility to another facility which gave us | | |
| | 184:21 lower freight costs, or in some cases they could | | |
| | 184:22 have said how about I look at a new freight line or | | |
| | 185:01 a new trucking company to lower my freight costs. | | |
| | 185:02 Q. Would General Mills necessarily know | | |
| | 185:03 where the cost savings, if any, on Michael Foods' | | |
| | 185:04 end lay, or does General Mills only care that it's | | |
| | 185:05 getting a cost savings, in this case equal to | | |
| | 185:06 \$400,000? | | |
| | 185:07 A. You know, it depends on how much | | |
| | 185:08 transparency the supplier is willing to share with | | |
| | 185:09 us and how collaborative that process is. The | | |
| | 185:10 initial discussion of how do I lower my cost is | | |
| | 185:11 just the first step. And then it's dependent on -- | | |
| | 185:12 it's dependent on the supply relationship that we | | |
| | 185:13 have and how willing the supplier is willing to let | | |
| | 185:14 General Mills into what their operations looks like | | |
| | 185:15 to help drive efficiencies out of it. | | |
| | 185:16 Q. So in some cases you might know -- | | |
| | 185:17 General Mills might know what the breakdown is that | | |
| | 185:18 would allow cost savings to be passed on to General | | |
| | 185:19 Mills; is that fair? | | |
| | 185:20 A. That's correct. | | |
| | 185:21 Q. And in some cases General Mills would | | |
| | 185:22 not know what's going on internally at its supplier | | |
| | 186:01 and it would just know that it's receiving a cost | | |
| | 186:02 savings as a result of a negotiation; is that | | |
| | 186:03 right? | | |
| | 186:04 A. That's correct. | | |
| 189:09 - 189:10 | Tran, Binh 2013-08-13 | 00:00:03 | Tran_10-31-23_10 |
|  515.1 | 189:09 Q. Yeah. Exhibit 19. | | 20.67 |
| | 189:10 A. Okay. | | |
| 189:11 - 189:12 | Tran, Binh 2013-08-13 | 00:00:04 | Tran_10-31-23_10 |
|  515.7 | 189:11 Q. If you would turn to the page that ends | | 20.68 |
| | 189:12 in 42 -- | | |
| 189:13 - 191:03 | Tran, Binh 2013-08-13 | 00:01:39 | Tran_10-31-23_10 |
| | 189:13 A. Okay. Egg market overview? | | 20.69 |
| | 189:14 Q. Yes. | | |
| | 189:15 A. Okay. | | |

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| | 189:16 Q. It says that the market displayed more | | |
| | 189:17 volatility than normal in 2006. | | |
| | 189:18 A. Okay. | | |
| | 189:19 Q. And then the first point is "An | | |
| | 189:20 imbalance in supply / demand created excess | | |
| | 189:21 supplies." Do you see that? | | |
| | 189:22 A. Yes. | | |
| | 190:01 Q. What does that mean? | | |
| | 190:02 A. Well, if there was an imbalance that's | | |
| | 190:03 creating excess supply, meaning it means that | | |
| | 190:04 there's more supply than there is demand. So | | |
| | 190:05 there's more inventory out there in the industry. | | |
| | 190:06 Q. And why does that create more | | |
| | 190:07 volatility? | | |
| | 190:08 A. It creates more volatility because, you | | |
| | 190:09 know, prices -- volatility is really a reflection | | |
| | 190:10 of prices. And prices is the search or the outcome | | |
| | 190:11 of where supply and demand ultimately meet. | | |
| | 190:12 Q. It goes on to say "Production costs will | | |
| | 190:13 continue to elevate due to strong corn prices and | | |
| | 190:14 high feed costs." Right? | | |
| | 190:15 A. Correct. | | |
| | 190:16 Q. And then "Rebalancing of supply to | | |
| | 190:17 sustainable levels will create a less volatile | | |
| | 190:18 environment." Did I read that correctly? | | |
| | 190:19 A. Right. | | |
| | 190:20 Q. Now, the date of this is March 2007. So | | |
| | 190:21 is it General Mills' expectation as of then that | | |
| | 190:22 these factors would lead to an increase in the cost | | |
| | 191:01 of eggs? | | |
| | 191:02 A. These were contributing factors to the | | |
| | 191:03 increase in costs of eggs. | | |
| 193:15 - 194:01 | Tran, Binh 2013-08-13 | 00:00:29 | Tran_10-31-23_10 |
|  515.5 | 193:15 The price of eggs varies in part due to | | 20.70 |
| | 193:16 the price of corn; is that fair? Under a | | |
| | 193:17 market-based model. | | |
| | 193:18 A. The price of corn is a contributing | | |
| | 193:19 factor to the price of eggs. | | |
| | 193:20 Q. And as the price of corn increases the | | |
| | 193:21 market price for egg would increase by some factor; | | |

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| | 193:22 is that fair? | | |
| | 194:01 A. Yes. | | |
| 194:02 - 194:06 | Tran, Binh 2013-08-13 | 00:00:20 | Tran_10-31-23_10 20.71 |
| | 194:02 Q. And does General Mills' corn hedging | | |
| | 194:03 strategy at least partially offset those price | | |
| | 194:04 increases? | | |
| | 194:05 A. Under an Urner Barry market type of | | |
| | 194:06 model, it does not and it would not. | | |
| 197:17 - 197:18 | Tran, Binh 2013-08-13 | 00:00:09 | Tran_10-31-23_10 20.72 |
|  515.24 | 197:17 Q. If you'll turn on this exhibit to page | | |
| | 197:18 159, the Bates number ending 159, it says "dry egg | | |
| 197:19 - 197:20 | Tran, Binh 2013-08-13 | 00:00:06 | Tran_10-31-23_10 20.73 |
| | 197:19 prices" at the top. | | |
| | 197:20 A. Okay. | | |
| 197:21 - 199:14 | Tran, Binh 2013-08-13 | 00:02:06 | Tran_10-31-23_10 20.74 |
| | 197:21 Q. This shows Urner Barry pricing for | | |
| | 197:22 different types of egg products from November 2000 | | |
| | 198:01 through March of 2008, correct? | | |
| | 198:02 A. Correct. | | |
| | 198:03 Q. And this lists dried whole plain, dried | | |
| | 198:04 yoke, spray albumen, and then blend 65/75 percent | | |
| | 198:05 whole egg, 25/35 percent corn syrup, right? | | |
| | 198:06 A. Correct. | | |
| | 198:07 Q. And is it fair to say that these all | | |
| | 198:08 prices do not move in synch with each other? | | |
| | 198:09 A. The chart would show that. | | |
| | 198:10 Q. And do you have any reason to think that | | |
| | 198:11 this chart is not accurate? | | |
| | 198:12 A. No. The chart's accurate. | | |
|  515.27 | 198:13 Q. Okay. And if you'll turn to the page | | |
| | 198:14 that ends in 62, liquid egg prices, this provide | | |
| | 198:15 Urner Barry pricing -- well, pricing -- for three | | |
| | 198:16 different types of liquid eggs, right? | | |
| | 198:17 A. Correct. | | |
| | 198:18 Q. And fair to say that these do not all | | |
| | 198:19 move in synch with one another? | | |
| | 198:20 A. That's correct. | | |
| | 198:21 Q. So does General Mills have an opinion on | | |
| | 198:22 why that is, why the price of one egg product would | | |

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| | 199:01 not move in sync with the price of another? | | |
| | 199:02 A. You know, it could be various reasons, | | |
| | 199:03 one of which could be just the demand and the type | | |
| | 199:04 of products that are being consumed out there in | | |
| | 199:05 the markets. So, you know -- and that can impact | | |
| | 199:06 what the prices ultimately do. | | |
| | 199:07 Q. So the price of a dried egg might go up | | |
| | 199:08 one month while the price of liquid egg stays | | |
| | 199:09 constant, right? | | |
| | 199:10 A. Yeah. That's a possibility. | | |
| | 199:11 Q. And the price of a shell egg could be up | | |
| | 199:12 even higher or could even be down during that same | | |
| | 199:13 month, right? | | |
| | 199:14 A. Yeah. That's a possibility. | | |
|  Clear | | | |
| 206:18 - 207:06 | Tran, Binh 2013-08-13 | 00:00:35 | Tran_10-31-23_10 20.75 |
| | 206:18 What does General Mills use egg products | | |
| | 206:19 for? | | |
| | 206:20 A. We'll use egg products in baking mixes, | | |
| | 206:21 in ready bake doughs, in pastries, some breakfast | | |
| | 206:22 types of sandwiches in our offerings. | | |
| | 207:01 Q. They're components of finished products | | |
| | 207:02 that General Mills sells? | | |
| | 207:03 A. That's correct. | | |
| | 207:04 Q. Does General Mills sell any egg | | |
| | 207:05 products? | | |
| | 207:06 A. No, we do not. | | |
| 207:07 - 207:19 | Tran, Binh 2013-08-13 | 00:00:51 | Tran_10-31-23_10 20.76 |
| | 207:07 Q. And does General Mills market its | | |
| | 207:08 finished products that contain egg products as | | |
| | 207:09 being superior in quality? | | |
| | 207:10 A. Superior in quality to what? | | |
| | 207:11 Q. Or having a high quality? | | |
| | 207:12 A. Well, yeah. General Mills is a, you | | |
| | 207:13 know -- has a full suite of product lines ranging | | |
| | 207:14 from economical to premium. So in some cases our | | |
| | 207:15 products are premium end. | | |
| | 207:16 Q. Do you think that superior product | | |
| | 207:17 quality is a principal strategy that General Mills | | |
| | 207:18 relies upon for competing? | | |
| | 207:19 A. It's a major component. | | |

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| 207:20 - 207:22 | Tran, Binh 2013-08-13 207:20 Q. And does that superior product quality 207:21 depend on procuring inputs like egg products that 207:22 are superior in quality? | 00:00:09 | Tran_10-31-23_10 20.77 |
| 208:03 - 208:07 | Tran, Binh 2013-08-13 208:03 A. Not always. You know, our products -- 208:04 there's multiple things in our products and in our 208:05 brands that elicit premium that isn't always 208:06 because of the egg that's deriving the premium 208:07 nature. | 00:00:24 | Tran_10-31-23_10 20.78 |
| 208:09 - 212:08 | Tran, Binh 2013-08-13 208:09 Q. Well, I'll ask it this way. Is the 208:10 quality of an egg product something that is of 208:11 significance to General Mills when it makes 208:12 purchasing decisions? 208:13 A. It's one of the major components, yes. 208:14 Q. And so what are the other components? 208:15 Price is one component? 208:16 A. Yes. Price, quality and service. 208:17 Q. Service like reliability? 208:18 A. Yup. 208:19 Q. Okay. Does General Mills ever do -- I 208:20 guess it would be R&D testing to compare two 208:21 different producers' version of an egg product to 208:22 see which is preferable from a quality 209:01 perspective? 209:02 A. As far as consumer liking scores and 209:03 things of that nature? Like does one -- does a 209:04 consumer like one supplier's eggs over another 209:05 supplier's eggs? 209:06 Q. It could be that. It could be that one 209:07 might work better in helping create a better 209:08 finished product. 209:09 A. General Mills will not look at that, you 209:10 know, consumer liking from one supplier to another 209:11 supplier. We won't do testing like that. We will 209:12 do testing on various types of specifications to 209:13 see which ones give us a better product and 209:14 consumer liking on that. 209:15 So for instance we might take different | 00:04:26 | Tran_10-31-23_10 20.79 |

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| 209:16 | mixes of egg white versus egg yolks and change up | | |
| 209:17 | those mixes to try to get a better product. But | | |
| 209:18 | that's on a specification standpoint and not from a | | |
| 209:19 | supplier standpoint. | | |
| 209:20 | Q. So once you have the specifications set | | |
| 209:21 | you wouldn't say does the product that's provided | | |
| 209:22 | to us by producer X versus producer Y work better | | |
| 210:01 | in our finished product? | | |
| 210:02 | A. Generally once our specifications are | | |
| 210:03 | set then regardless of the supplier, whichever | | |
| 210:04 | supplier that we will do business with, they are | | |
| 210:05 | expected to hit that specification. | | |
| 210:06 | Q. Okay. But you said the quality of the | | |
| 210:07 | egg product is one of the factors that General | | |
| 210:08 | Mills considers? | | |
| 210:09 | A. Yes. | | |
| 210:10 | Q. So how does General Mills ascertain the | | |
| 210:11 | quality of that egg product? | | |
| 210:12 | A. The quality of the egg product is based | | |
| 210:13 | on our specification. The quality of the supplier, | | |
| 210:14 | though, is based on other factors as far as their | | |
| 210:15 | manufacturing practices, their -- you know, their | | |
| 210:16 | facilities and the cleanliness of their facilities | | |
| 210:17 | and their HASIP program type of things. | | |
| 210:18 | Q. And that affects ultimately the product | | |
| 210:19 | that's being provided to General Mills, right? | | |
| 210:20 | A. It's a factor that could help it, yes. | | |
| 210:21 | Q. So the products from all of these | | |
| 210:22 | suppliers are not identical, right? They're not | | |
| 211:01 | fungible or homogenous; they're different? | | |
| 211:02 | A. No. They are fungible. So in any one | | |
| 211:03 | of our specifications we will have multiple | | |
| 211:04 | suppliers on one specification and we can move | | |
| 211:05 | between supplier A, B or C, as long as they hit our | | |
| 211:06 | specification. | | |
| 211:07 | Q. And as long as their processing | | |
| 211:08 | facilities meet all of your different criteria? | | |
| 211:09 | A. Correct. | | |
| 211:10 | Q. Which make them distinguishable from one | | |
| 211:11 | another? You care about who's providing you with | | |
| 211:12 | your egg products? | | |

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| | 211:13 A. That's correct. | | |
| | 211:14 Q. And so if you care about who's providing | | |
| | 211:15 you with your egg products, then this isn't -- I | | |
| | 211:16 don't understand how there's fungibility between | | |
| | 211:17 them. | | |
| | 211:18 A. There's fungibility between the | | |
| | 211:19 suppliers on our specifications. There is not | | |
| | 211:20 fungibility between suppliers that are not on our | | |
| | 211:21 specifications. So if you're not approved and your | | |
| | 211:22 facility is not approved, then we will not do | | |
| | 212:01 business with you. | | |
| | 212:02 Q. But a supplier might able to meet your | | |
| | 212:03 specifications but still not pass your quality | | |
| | 212:04 screening or something like that, right? | | |
| | 212:05 A. Yes. That's a possibility. | | |
| | 212:06 Q. So there's not fungibility between all | | |
| | 212:07 suppliers that can meet your specifications? | | |
| | 212:08 A. That's right. | | |
| 226:21 - 227:10 | Tran, Binh 2013-08-13 | 00:00:35 | Tran_10-31-23_10 20.80 |
| | 226:21 We talked about criteria that General | | |
| | 226:22 Mills looks at and has looked at in its purchase of | | |
| | 227:01 egg products. Is animal welfare among the criteria | | |
| | 227:02 that General Mills considers? | | |
| | 227:03 A. In deciding who we do business with? | | |
| | 227:04 Q. In deciding what egg products it | | |
| | 227:05 purchases. | | |
| | 227:06 A. No. Animal welfare was not a | | |
| | 227:07 consideration in who or what we buy. | | |
| | 227:08 Q. And that's been true for the history of | | |
| | 227:09 your tenure in the company? | | |
| | 227:10 A. Yes, it is, for eggs. | | |
| 229:03 - 229:14 | Tran, Binh 2013-08-13 | 00:00:38 | Tran_10-31-23_10 20.81 |
| | 229:03 Q. Have you had any -- has General Mills | | |
| | 229:04 had any requests from purchasers of General Mills | | |
| | 229:05 products to change or otherwise modify your egg | | |
| | 229:06 procurement practices? | | |
| | 229:07 A. Due to animal welfare issues, you're | | |
| | 229:08 asking? | | |
| | 229:09 Q. Okay. | | |
| | 229:10 A. Right? No, we have not had any requests | | |

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| | 229:11 by our customers to change our purchasing | | |
| | 229:12 practices. | | |
| | 229:13 Q. Or by any retailer that you're aware of? | | |
| | 229:14 A. Yes. Or by any retailer. | | |
| 229:15 - 229:15 | Tran, Binh 2013-08-13 | 00:00:04 | Tran_10-31-23_10 |
| | 229:15 Q. Are you aware of United Poultry concerns | | 20.82 |
| 229:16 - 229:20 | Tran, Binh 2013-08-13 | 00:00:16 | Tran_10-31-23_10 |
| | 229:16 or PETA ever making any | | 20.83 |
| | 229:17 overtures towards General Mills to change or modify | | |
| | 229:18 your egg procurement practices? | | |
| | 229:19 A. We have not had any requests by those | | |
| | 229:20 organizations to change our practices. | | |
| 235:18 - 236:05 | Tran, Binh 2013-08-13 | 00:00:27 | Tran_10-31-23_10 |
| | 235:18 Q. Has General Mills purchased egg products | | 20.84 |
| | 235:19 that were made from certified eggs? | | |
| | 235:20 A. No, we have not. | | |
| | 235:21 Q. Were any of General Mills' purchases | | |
| | 235:22 from Rose Acre Farms produced with certified eggs? | | |
| | 236:01 A. No, they were not. | | |
| | 236:02 Q. Any of the purchases from Michael Foods? | | |
| | 236:03 A. Certified? | | |
| | 236:04 Q. Certified eggs. | | |
| | 236:05 A. Yeah. No, they were not. | | |
| 237:10 - 237:15 | Tran, Binh 2013-08-13 | 00:00:03 | Tran_10-31-23_10 |
|  D444.1 | 237:10 Q. I'll show you what's been marked as | | 20.85 |
| | 237:11 Exhibit 28. | | |
| | 237:12 (Tran Exhibit 28 was | | |
| | 237:13 marked for | | |
| | 237:14 identification.) | | |
| | 237:15 BY MR. DAVIS: | | |
| 237:16 - 238:05 | Tran, Binh 2013-08-13 | 00:00:31 | Tran_10-31-23_10 |
| | 237:16 Q. Do you recognize Exhibit 28? | | 20.86 |
| | 237:17 A. No, I don't. | | |
| | 237:18 Q. Have you ever seen this document before? | | |
|  D444.1.1 | 237:19 A. I have not seen this document. | | |
| | 237:20 Q. Does Exhibit 28 appear to be a letter | | |
| | 237:21 from Al Pope, who was at that time the president of | | |
| | 237:22 United Egg Producers, to Steve Sanger? | | |
| | 238:01 A. It would appear like it. | | |

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| DESIGNATION | SOURCE | DURATION | ID |
|--|--|----------|------------------|
| | 238:02 Q. Does General Mills have any reason to | | |
| | 238:03 believe that this letter was not received by Mr. | | |
| | 238:04 Sanger? | | |
| | 238:05 A. I wouldn't think so. | | |
| 238:06 - 239:07 | Tran, Binh 2013-08-13 | 00:01:23 | Tran_10-31-23_10 |
|  D444.1.2 | 238:06 Q. If you look at the third paragraph, | | 20.87 |
| | 238:07 second sentence, it says "Last summer we unveiled | | |
| | 238:08 new animal welfare guidelines that introduce | | |
| | 238:09 sweeping changes to how eggs are producing in | | |
| | 238:10 America." Do you guess sentence? | | |
| | 238:11 A. Yes. | | |
|  D444.1.3 | 238:12 Q. And then in the next paragraph, fourth | | |
| | 238:13 line down, "These guidelines are based on | | |
| | 238:14 science -- not emotion -- and place top priority or | | |
| | 238:15 the comfort, health and safety of the chickens, | | |
| | 238:16 including increased cage space per hen, standards | | |
| | 238:17 for water, feed and air quality; and standards for | | |
| | 238:18 care and handling procedures." Do you see that? | | |
| | 238:19 A. Yes. | | |
| | 238:20 Q. Do you have any reason to think that as | | |
| | 238:21 of February 25th 2003 or shortly thereafter General | | |
| | 238:22 Mills was not aware of the fact that UEP's | | |
| | 239:01 guidelines called for increased cage space per hen? | | |
| | 239:02 A. No. We wouldn't have any reason to | | |
| | 239:03 think that they didn't do that, that UEP didn't do | | |
| | 239:04 that. | | |
| | 239:05 Q. So this letter informs General Mills of | | |
| | 239:06 that component of the guidelines, correct? | | |
| | 239:07 A. Yeah. | | |
| 249:06 - 249:11 | Tran, Binh 2013-08-13 | 00:00:04 | Tran_10-31-23_10 |
|  D9.1 | 249:06 Q. I'll show you what's been marked as | | 20.88 |
| | 249:07 Exhibit 31. | | |
| | 249:08 (Tran Exhibit 31 was | | |
| | 249:09 marked for | | |
| | 249:10 identification.) | | |
| | 249:11 BY MR. DAVIS: | | |
| 249:12 - 249:18 | Tran, Binh 2013-08-13 | 00:00:16 | Tran_10-31-23_10 |
|  D9.1.1 | 249:12 Q. Exhibit 31 is a February 2007 edition of | | 20.89 |
| | 249:13 United Voices. Are you familiar with United | | |
| | 249:14 Voices? | | |

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| DESIGNATION | SOURCE | DURATION | ID |
|---|--|----------|------------------|
| | 249:15 A. I'm not. | | |
| | 249:16 Q. Do you know how General Mills obtained | | |
| | 249:17 this document? | | |
| | 249:18 A. I do not know. | | |
| 249:19 - 250:03 | Tran, Binh 2013-08-13 | 00:00:14 | Tran_10-31-23_10 |
| | 249:19 Q. Have you ever seen a version of United | | 20.90 |
| | 249:20 Voices before? | | |
| | 249:21 A. No, I have not. | | |
| | 249:22 Q. Do you know whether anyone at General | | |
| | 250:01 Mills has received any other copies of United | | |
| | 250:02 Voices? | | |
|  Clear | 250:03 A. I'm not aware of any. | | |
| 250:04 - 250:08 | Tran, Binh 2013-08-13 | 00:00:21 | Tran_10-31-23_10 |
| | 250:04 Q. Has General Mills had any contact with | | 20.91 |
| | 250:05 any egg producer or egg product supplier about any | | |
| | 250:06 animal welfare program other than the UEP certified | | |
| | 250:07 program? | | |
| | 250:08 A. No, we have not. | | |
| 251:20 - 252:16 | Tran, Binh 2013-08-13 | 00:00:40 | Tran_10-31-23_10 |
| | 251:20 Does General Mills take any animal | | 20.92 |
| | 251:21 welfare standards into account when it makes egg | | |
| | 251:22 product procurement decisions? | | |
| | 252:01 A. No, we do not. | | |
| | 252:02 Q. So just to confirm, General Mills does | | |
| | 252:03 not take cage space into account? | | |
| | 252:04 A. No, it does not. | | |
| | 252:05 Q. Whether or not an egg producer molts its | | |
| | 252:06 hens? | | |
| | 252:07 A. No. | | |
| | 252:08 Q. Whether an egg producer backfills cages? | | |
| | 252:09 A. No. | | |
| | 252:10 Q. Whether an egg producer beak trims? | | |
| | 252:11 A. No. | | |
| | 252:12 Q. Whether hens are in cages or cage-free? | | |
| | 252:13 A. No. | | |
| | 252:14 Q. The ammonia levels that are used in hen | | |
| | 252:15 houses? | | |
| | 252:16 A. No. | | |
| 271:15 - 271:16 | Tran, Binh 2013-08-13 | 00:00:03 | Tran_10-31-23_10 |

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| DESIGNATION | SOURCE | DURATION | ID |
|---|--|----------|---------------------------|
|  D24.1 | 271:15 Q. I'll show you 271:16 what's been marked as Exhibit 38. | | 20.93 |
| 271:17 - 271:22 | Tran, Binh 2013-08-13 271:17 (Tran Exhibit 38 was 271:18 marked for 271:19 identification.) 271:20 BY MR. DAVIS: 271:21 Q. Exhibit 38 appears to be a meeting 271:22 invitation from Gregg Dorazio. | 00:00:07 | Tran_10-31-23_10 20.94 |
| 274:03 - 275:08 | Tran, Binh 2013-08-13  D24.1.1 274:03 Q. At the top this e-mail mentions 274:04 responsible sourcing. Do you see that? 274:05 A. Yup. 274:06 Q. What is responsible sourcing? 274:07 A. Responsible sourcing was -- well, what 274:08 responsible sourcing is is are we taking into 274:09 account sustainability, environmental, social 274:10 aspects in how we do business. 274:11 Q. And that includes animal welfare? 274:12 A. Yes, it could. 274:13 Q. How many people are involved in 274:14 responsible sourcing? 274:15 A. Right around 2010 -- yeah, right around 274:16 2010 there was a centralized group. And right now 274:17 I believe there is -- one, two -- maybe five or six 274:18 people that are involved. 274:19 Q. When did responsible sourcing begin? 274:20 A. The group -- we call them the 274:21 sustainability and social responsibility. That 274:22 group began in 2010. 275:01 Q. And why did it begin? 275:02 A. It began because General Mills started 275:03 seeing more interest and more activities as it 275:04 pertained to special interest groups and the need 275:05 to be ahead of issues out there as it pertained to 275:06 the environment, sustainability and social aspects. 275:07 Q. And animal welfare? 275:08 A. And animal welfare. | 00:01:51 | Tran_10-31-23_10 20.95 |
|  Clear | | | |
| 276:05 - 276:21 | Tran, Binh 2013-08-13 276:05 Q. Does General Mills have any other | 00:00:41 | Tran_10-31-23_10 20.96 |

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| DESIGNATION | SOURCE | DURATION | ID |
|--|--|----------|------------------|
| | 276:06 collections of people that deal at least in part | | |
| | 276:07 with animal welfare issues? | | |
| | 276:08 A. No. | | |
| | 276:09 Q. Does General Mills have any individuals | | |
| | 276:10 who are not part of responsible sourcing who deal | | |
| | 276:11 with animal welfare issues? | | |
| | 276:12 A. It would be the individual buyers then. | | |
| | 276:13 If there is an issue within their category they | | |
| | 276:14 would get involved with the sustainability group. | | |
| | 276:15 Q. So General Mills has no other -- no | | |
| | 276:16 committees that deal with animal welfare issues | | |
| | 276:17 other than responsible sourcing? | | |
| | 276:18 A. That's correct. | | |
| | 276:19 Q. Or any working groups that deal with | | |
| | 276:20 these issues or look into these issues? | | |
| | 276:21 A. That's correct. | | |
| 292:17 - 292:19 | Tran, Binh 2013-08-13 | 00:00:07 | Tran_10-31-23_10 |
|  D35.1 | 292:17 Q. Mr. Tran, I've been handed what's been | | 20.97 |
| | 292:18 marked as Exhibit 42. Do you recognize this | | |
| | 292:19 document? | | |
| 293:04 - 293:05 | Tran, Binh 2013-08-13 | 00:00:06 | Tran_10-31-23_10 |
| | 293:04 A. Yeah. It looks like a presentation on | | 20.98 |
| | 293:05 eggs. | | |
| 295:17 - 298:05 | Tran, Binh 2013-08-13 | 00:02:45 | Tran_10-31-23_10 |
|  D35.12 | 295:17 Q. So do you see the box that reads | | 20.99 |
| | 295:18 "Industry fragmented around standards and | | |
|  D35.12.1 | 295:19 go-forward strategies leading to lack of measurable | | |
| | 295:20 expansion"? | | |
| | 295:21 A. Yes. | | |
| | 295:22 Q. Why would an industry that's fragmented | | |
| | 296:01 around standards lead to a lack of measurable | | |
| | 296:02 expansion? | | |
| | 296:03 A. Well, if you don't have standards or | | |
| | 296:04 go-forward strategies, you know, your industry is | | |
| | 296:05 basically directionless so why would you invest | | |
| | 296:06 in -- why would you invest to go nowhere. You want | | |
| | 296:07 to have a good strategy or plan. | | |
| | 296:08 Q. So industry standards are important for | | |
| | 296:09 expansion of the industry? | | |
| | 296:10 A. Well, as it states here, "industry | | |

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| DESIGNATION | SOURCE | DURATION | ID |
|--|--|----------|------------------|
| | 296:11 standards and go-forward strategies." | | |
| | 296:12 Q. Right. They are each important? | | |
| | 296:13 A. They are both important, yes. | | |
| | 296:14 Q. And so one of the things that's | | |
| | 296:15 important for industry expansion is industry | | |
| | 296:16 standards; is that right? | | |
| | 296:17 A. It's one of them. | | |
| | 296:18 Q. Yes. | | |
| | 296:19 A. Yeah. | | |
| | 296:20 Q. And you said because it gives a certain | | |
| | 296:21 measure of predictability? | | |
| | 296:22 A. Yeah. Predictability is one factor. | | |
| | 297:01 Q. Why else? | | |
| | 297:02 A. Why -- | | |
| | 297:03 Q. Are they important. | | |
| | 297:04 A. Why else are standards and go-forward | | |
| | 297:05 strategies? | | |
| | 297:06 Q. Specifically standards. | | |
| | 297:07 A. Why are standards important? Because if | | |
| | 297:08 you -- well, if you don't have standards then you | | |
| | 297:09 don't know what the rules of the game are. | | |
| | 297:10 Q. And so why is that important to know in | | |
| | 297:11 order to have industry expansion? | | |
| | 297:12 A. Because if your rules ultimately change | | |
| | 297:13 then you could be left with an asset base or a -- | | |
| | 297:14 you know, or a product that can't be sold. | | |
|  D35.13 | 297:15 Q. If you turn to the next page, page 13, | | |
| | 297:16 on the top slide in the middle box it reads -- and | | |
|  D35.13.1 | 297:17 I know it's difficult to read. "No one is | | |
| | 297:18 currently adding capacity due to lack of clarity on | | |
| | 297:19 standards and high feed costs." Do you see that? | | |
| | 297:20 A. Yes. | | |
| | 297:21 Q. So is it General Mills' view that in the | | |
| | 297:22 further processed egg industry a reluctance to add | | |
| | 298:01 capacity was due to a lack of clarity on standards? | | |
| | 298:02 A. Well, as it states here, it's a lack of | | |
| | 298:03 standards and high feed. | | |
| | 298:04 Q. Both of those two things contribute -- | | |
|  Clear | 298:05 A. To a lack of expansion. | | |
| 328:06 - 328:09 | Tran, Binh 2013-08-13 | 00:00:12 | Tran_10-31-23_10 |

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| DESIGNATION | SOURCE | DURATION | ID |
|-----------------|--|----------|------------------|
| | 328:06 Q. Mr. Tran, Mr. Hutchinson went through a | | 20.100 |
| | 328:07 litany of variables that might affect or, to use | | |
| | 328:08 his word, impact the price of eggs. Do you recall | | |
| | 328:09 that? | | |
| 328:12 - 328:12 | Tran, Binh 2013-08-13 | 00:00:01 | Tran_10-31-23_10 |
| | 328:12 A. Yes. | | 20.101 |
| 328:13 - 328:15 | Tran, Binh 2013-08-13 | 00:00:07 | Tran_10-31-23_10 |
| | 328:13 BY MR. CAMPBELL: | | 20.102 |
| | 328:14 Q. Would a conspiracy by producers of eggs | | |
| | 328:15 to fix the price of eggs impact the price of eggs? | | |
| 328:17 - 328:17 | Tran, Binh 2013-08-13 | 00:00:01 | Tran_10-31-23_10 |
| | 328:17 A. Yes, it would. | | 20.103 |
| 329:04 - 329:12 | Tran, Binh 2013-08-13 | 00:00:28 | Tran_10-31-23_10 |
| | 329:04 Q. You were asked some questions about | | 20.104 |
| | 329:05 whether or not prior to General Mills' switch to | | |
| | 329:06 Rembrandt as a producer, egg producer, whether all | | |
| | 329:07 egg prices were based upon the Urner Barry index. | | |
| | 329:08 Do you recall that question? | | |
| | 329:09 A. Yes. | | |
| | 329:10 Q. Were they -- were all purchases prior to | | |
| | 329:11 that switch based upon Urner Barry? | | |
| | 329:12 A. Yes. | | |
| 330:02 - 330:11 | Tran, Binh 2013-08-13 | 00:00:35 | Tran_10-31-23_10 |
| | 330:02 Q. You were asked whether you got differing | | 20.105 |
| | 330:03 price quotes or proposals from various suppliers. | | |
| | 330:04 Do you recall that? | | |
| | 330:05 A. Yes. | | |
| | 330:06 Q. Did those price proposals differ with | | |
| | 330:07 respect to the underlying Urner Barry index at all? | | |
| | 330:08 A. No, they did not. The only pieces that | | |
| | 330:09 would differ would be freight and packaging, | | |
| | 330:10 depending on where the suppliers' locations were | | |
| | 330:11 and what types of packaging they used. | | |
| 334:17 - 334:21 | Tran, Binh 2013-08-13 | 00:00:26 | Tran_10-31-23_10 |
| | 334:17 Q. Is it your testimony that at no point | | 20.106 |
| | 334:18 did General Mills accept grain-based pricing from | | |
| | 334:19 Waldbaum or Michael Foods? | | |
| | 334:20 A. Yeah. We didn't have grain-based | | |
| | 334:21 pricing from our suppliers before Rembrandt. | | |

| | |
|-----------------------------|-----------------|
| Plaintiff Designations | 00:18:18 |
| Defense Designations | 00:11:43 |
| Defense Counters | 00:31:26 |
| Plaintiff Reply to Counters | 00:05:58 |
| TOTAL RUN TIME | 01:07:26 |



Documents linked to video:

515
568
651
821
D3
D9
D11
D13
D16
D21
D24
D35
D444
D1227